87-1172

Supreme Court, U.S.
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UNITED STATES SUPREME COURT

1987 TERM

HARRY BEALE

v.

C. WILLIAM O'NEILL, et al.

PETITION FOR CERTIORARI FROM THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Harry A. Beale, Petitioner
775 Kaderly Drive
Columbus, Ohio 43228
614/276-4100

Representing himself

29pp

A. LIST OF QUESTIONS

INTRODUCTION Beale is clearly not an attorney and his learning of the law and form is without doubt highly flawed. He therefore apologizes for his inadequacies to the learned reader who ventures further.

I. **CONSTITUTION** 1. According to Art. III., Section 1 of the Constitution of the United States, and 42 USC §1983 as amended in 1979, is there such a thing as Judicial Immunity for the Federal inferior Court Judges? Can the Supreme Court make the regulations and rules for the inferior Courts according to Art. III., Section 2. [2] of the Constitution? Is the decision of **Pierson v. Ray**, 386 U. S. 547 (1967) therefore unlawful and unconstitutional? Since Judges of the inferior Courts have authority to suspend

Acts of the Congress and expend public funds through certain judgments, are they public ministers by definition and therefore triable under Art. III., Section 2. [2] anyway?

2. Does a U. S. Citizen have a fundamental right to a fair trial and is this actually two rights juxtaposed, i.e., is there a fundamental right to a trial and a fundamental right to fairness? Is the fundamental right to fairness pervasive to the entirety of due process, including pretrial matters?

II. **JUDGES** 3. Is there a bound beyond which a Judge of an inferior Court may no further deny Constitutional rights without the allowance of collateral attack? To preserve the integrity of the Court, must counsel first formally (or in camera, as appropriate) notify the Court

of the serious denial and so allow the Court the opportunity to correct the problem in situ?

4. If a Federal Judge is shown by documentary substantiation that an earlier pretrial decision is based entirely upon perjured testimony, is that Judge constrained to act to correct the situation in the name of fairness? Can a Judge present a ruling which is merely window dressing for the appeal process and which ignores the pertinent matter in the complaint?

5. Is it the duty of a Federal Judge to determine if witnesses before the Court are proper and/or properly under oath? Does Rule 603, Federal Rules of Evidence, make the Court complicit in perjury for failure to administer a properly calculated oath?

Does Rule 610, ibid., support this position? Would problems be alleviated if the Court holds that it must consider all religions as only preference social organizations, i.e., divinity per se is beyond the jurisdiction of the Court, and therefore as social organizations, Art. VI. of the Constitution must be embraced?

6. Can a Federal Judge refuse to allow the amending of a complaint to be legally proper or sufficient merely because the amending would constitute a valid citation of a law firm for malpractice?

7. Is it an abridgment of fundamental fairness if the law clerks of a Federal Judge converse with and prompt attorneys opposing a pro se litigant, during a hearing, while the Judge is under suit?

8. If a Federal Court of Appeals finds a District Court Judge has tampered with evidence, is it denial of due process if they dismiss the case and then change the local rules to attempt to stop such from occurring again and does such involve the compounding of a felony?

9. Is it a violation of the rights of a pro se litigant according to Amendment XIV., for a Federal Judge to call a meeting of counsellors for the defendants and for the counterclaim defendants in chambers after a hearing and omit a pro se litigant?

10. Does a Federal Judge have a duty to act promptly if improper activities of attorneys are brought to his attention and what is promptly? Is enforcement mandatory if specified in the Local Rules of the Court? Can the

Federal Judge refuse to act promptly on the basis that the party bringing the notice of improper activities of attorneys to his attention is only pro se before the Court and as such is this a denial of rights according to Amendment XIV. of the Constitution, if such is not a requirement of the Local Rules?

11. As a minimum, must the salaries of Judges of the inferior Courts be greater than or equivalent to the average of the upper 1/3 of the attorneys' salaries in their respective district or circuit?

III. **ATTORNEYS** 12. Is it the duty of the inferior Federal Courts to develop the linkage at all times between truth, law, fairness and justice? Because of the latitude granted to attorneys under the provisions of advocate duty wherein

it may be in the interests of their clients to conceal the truth and prey upon the lack of knowledge of Judges and/or jurors, can attorneys be held out as officers of the Court, or should a natural dichotomy be imposed for the integrity of the Court? Can attorneys practicing in Federal Courts even be allowed to be notaries public? Can attorneys be part of the Judicial Conference, ref. 28 USC §331 ff? Must all Federal Judges resign from the Bar?

13. Is legal malpractice a simple state issue of negligence when the malpractice extends to subverting a civil action in another Federal Court in another District, or is this a Federal question as denial of the fundamental right to a fair trial?

14. Is the attorney the master

of the litigation in a Civil Action, the same as is accepted in a Criminal Action (U. S. v. Marshall 488 F. 2d 1169 (9th Cir. 1973))?

15. Does the attorney signing a pleading submitted in Federal Court bear full responsibility thereto for content and form (Rule 11, Federal Rules of Civil Procedure)?

16. Does tampering with evidence in a Federal Court by an attorney as an Officer of the Court constitute a Federal Question under 28 USC §1331, or must this be handled as a matter of fraud, (U. S. v. Tomicich, 41 F. Supp. 33)?

17. Does the backdating of pleadings and altering of Civil Docket Sheets in the Office of the Clerk of the District Court constitute a willful act

of fraud and because of the necessary use and misrepresentation of Federal facility and authority, is this a Federal Question?

18. Is the circulation of backdated pleadings and evidence subjected to tampering through the U.S. Mail a Federal Question under 28 USC §1339 if damages are caused thereby and is the use of the U.S. Mail integral to the work of an attorney practicing in Federal Courts?

19. Can attorneys for the opposition contact the customers, in various states, of a publicly held corporation, urging them to restrict or eliminate their business trade and can these same attorneys seek to aid in the establishment of a competitor to the publicly held corporation or is such merely within the sphere of advocate duty

and appropriate actions for Officers of the Court?

20. Can attorneys and a Federal Judge intimidate the accountant for a public company through a series of fraudulent rulings and improper activities, to the degree that the accountant resigns from fear.

B. **LIST OF PARTIES**

The parties to the litigation are Defendants:

C. William O'Neill, Esq. ("O'Neill")

Vorys, Sater, Seymour and Pease ("Vorys")

Richard C. Graham, Esq. ("Graham")

Isaac, Brant, Ledman & Becker ("Isaac-Brant")

Hon. Joseph P. Kinneary ("Judge

Kinneary")

Plaintiff

Dr. Harry A. Beale ("Beale")

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C. 2. TABLE OF AUTHORITIES

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Foman v. Davis, 371 U. S. 178 (1962)

International Shoe v. Washington, 326 U.S. 310 (1945)

Mitchell v. Forsyth, 86 Law. Ed. 2d 411 (1986)

Pierson v. Ray, 386 U.S. 547 (1967)

Pulliam v. Allen, 80 Law. Ed. 2d 565 (1984)

Textile Workers Union v. Lincoln Mills, 353 U.S. 448 (1957)

U.S. v. Dubilier Condenser Corp., 289 U.S. 178 (1933)

U.S. v. Marshall, 488 F. 2d 1169 (9th Cir. 1973)

U.S. v. Tomicich, 41 F. Supp. 33

Federal Rules of Civil Procedure, Rule 11

Federal Rules of Evidence Rules 603 & 610

Judicial Act of 1798, 1925, 1937

Judicial Code of 1911

Local Rules : Order 81-1

The Constitution of the United States

United States Code
Title 28, §42, 331, 1331, 1339 2072
Title 42, §1983

D. LISTING OF ACTIONS BELOW

Case C-2-86-1201 (Derivative Stockholder Suit)

1. Protective Order
2. Memorandum and Order
3. Order
4. Judgment Memorandum and Order

Case C-2-86-1309 (Personal Suit)

1. Protective Order
2. Decision and Order
3. Judgment
4. Denial of Motion to Amend to Relect the Complaint

Consolidated in Appeal

Order
Denial of Petition for Rehearing in Banc
Mandate

E. STATEMENT OF JURISDICTION

This Court has jurisdiction according to the Judicial Reform Act of

13 February 1925, and the Judicial Code of 1911.

(i) The date of the first Order of the U. S. Court of Appeals for the Sixth Circuit is 14 August 1987.

(ii) A Petition for Rehearing in Banc was filed on 21 August 1987. The Petition was denied on 16 October 1987. The Mandate of that Court issued on 3 November 1987. It is to the Mandate to which this Petition for Certiorari is directed, since until the Mandate issued, nothing was official. Beale filed a Motion to Stay the Mandate on 12 November 1987 pending a filing with this Court. The Motion for Stay was denied on 30 November 1987, with no surprise. ~~On 3 December 1987, Beale filed a Motion to Enlarge the time for filing this petition to 2 January 1988,~~

~~even though the proper 60 day period does not expire until 2 January 1988, simply to eliminate nonsense arguments before they are advanced.~~

(iii.) Not applicable.

(iv.) See opening statement, this section.

F. FORMAL PROVISIONS

The appropriate formal provisions relative to this case are:

1) The preamble to The Constitution of the United States, as well as Articles III., IV., V., and VI. thereof.

2) Title 42 USC §1983, as currently amended.

The entirety of the citations is presented in the Appendix.

G. STATEMENT OF CASE

I. PROLOGUE

(A Case in Logic)

Ordinarily this Court can refuse to review a Petition for Certiorari. In this action, the Court is compelled to the review by Law, i.e., to eliminate previous unlawful actions.

Beale has wrestled with the following alleged scenarios:

A. The Legacy of President Roosevelt

1. President Roosevelt issued a feint with the plan to increase the number of Justices on the high Court, and a second feint with the plan to retire the older Judges in the system, in the Judicial Act of 1937.

2. Roosevelt titillated the ego of the Court and entrapped the Court in continuing acts of sedition in the revisions of the U. S. Code in 1940,

through the ready denials of the Constitution by this Court in its quest for power, e.g. 28 U.S.C. §2072, etc., **Textile Workers Union v. Lincoln Mills**, 353 U.S. 448 (1957), **Pierson v. Ray**, 386 U.S. 547 (1967) all of which are illegal according to Art. III., Sections 1 and 2. [2], Art. V., and Art. VI., of the Constitution.

B. The Deviousness of the Congress

1. The Congress knew itself to be too inept and too divided to fulfill its duties according to Art. III., Section 2. [2] of the Constitution.

2. The Congress exploited the failures of Roosevelt (A. 1. - 2. above) and through a fraudulent alliance, tricked the high Court into making the regulations for the inferior Federal Courts. The inferior Courts were placed

administratively under the high Court, creating in the combination an absolute conflict of interest and continuing acts of sedition, through the high Court making the regulations for the inferior Courts and enacting such into law at the default of the Congress.

3. By 1979, the Congress thought the various sets of rules developed by the high Court were adequate and so 42 USC §1983 was amended. The Court was tricked into testing the amended law on only a magistrate of a State Court in **Pulliam v. Allen**, 80 Law. Ed. 2d 565 (1984) and again on the U. S. Attorney General in **Mitchell v. Forsyth**, 86 Law. Ed. 2d 411 (1986), in each instance upholding the amended law.

4. Now comes this case, demanding on the conflict of interest and

the seditious acts.

C. The Treason of the Supreme Court

1. The high Court learned the corruption of the Circuit Courts via the Judicial Act of 1798 wherein the Congress was finally forced to reorganize the Circuit Courts.

2. With an intimate in the White House in 1909, the high Court dared to advance the Judicial Code of 1911, with its many denials of the Constitution.

3. With the original intimate as the Chief Justice, the high Court maneuvered the unconstitutional Judicial Act of 1925, utilizing the then President (whose administration was known for scandals and yet who was a close ally, geographically and tactically, of the Chief Justice).

4. The Court used its influence in the Congress to defeat President Franklin Roosevelt in 1937, when he opened a frontal attack on the unconstitutional Judicial Act of 1925.

5. The Court has helped develop the most honorable laws and regulations in the World for the inferior Courts but encourages or allows their selective enforcement in the Courts and through preplanned communication, e.g. 28 USC §42, and the Judicial Act of 1925, insidiously controls what it will allow in appeal.

6. The Court along with select groups had and may still have every intention of taking total control of the U. S. Government and if challenged, will even produce cleverly altered purportedly old documents and old

Acts of Congress supporting its position as per the teachings of the infamous Pseudo-Isidorian Decretals of 857 A.D.

7. The Congress and the President amended 42 U.S.C. §1983 in 1979, to foil the plans of the Court.

D. The Noblesse Oblige of the Supreme Court

1. The Court recognized that its excessive workload was due to the Congress somehow not properly fulfilling Art. III., Section 2. [2] of the Constitution.

2. The Court developed the concept of Petitions for Certiorari, in 1911 to circumvent the appeal requirement of the Constitution and tested the use of its best judgment to determine which appeals should be heard for several years.

3. By 1940, the high Court agreed that it indeed had satisfactory control of its workload and so it undertook the making of model regulations for the inferior Courts. To avoid distractions, it accepted the administration of the inferior Courts as well, with increased communication therebetween courtesy of 28 USC §42, etc.

4. While the high Court was unconstitutionally doing the duty of the Congress, it was agreed that the Congress would not attack the Justices for sedition according to Art. III, Section 1. of the Constitution.

5. To avoid distractions, the high Court unfortunately and unlawfully passed absolute immunity down to its administratively subordinate Judges in **Pierson v. Ray**, supra, who in turn

effectively passed it to attorneys by making malpractice suits almost impossible.

6. While the various sets of regulations and rules for the inferior Courts are for the most part exemplary, the total situation is truly a legal nightmare. Certain of the rules unfortunately appear unconstitutional. The high Court is in a conflict of interest to adjudicate over rules of its own manufacture. Similarly the high Court is in a conflict of interest to preside over this case which involves administratively subordinate personnel and current law 42 USC §1983 which the inferior Courts refused to honor as required by Art. VI., of the Constitution and which this Court has already twice upheld, noting that the law is what the

Congress makes it to be at the time and that the Constitution does not specify that Judges of the inferior Courts can only be impeached in the Congress, i.e., cannot be taken to task in the Courts.

Beale has herein assembled the same set of facts in several different ways, some of which would appear to require advanced paranoia for total support. The only other ready alternative that the Justices of the high Court are simply miserable incompetents has been summarily dismissed. Therefore the Court must use this case to rid itself of the unconstitutional activities and force order in the inferior Courts with the same high level of competence it showed in developing the model regulations for the Congress to use to

make the new regulations.

II. STATEMENT PROPER

The case involves provincialism, i.e., the beneficial exploitation of the Judicial System by those who operate the system, and the loss to sight of the lofty ideals of the Preamble of the Constitution.

On 5 June 1982, Beale and the Omnimax Corporation, a venture capital firm, entered into an Agreement. Omnimax was to earn its 49% ownership in the venture through the raising of $1,700,000.00. Subsequent the Agreement, Beale reorganized a company of which he was sole owner and Omnimax allegedly raised some $5,000,000.00. Beale has since learned allegedly that Omnimax, with the aid of various attorneys

misappropriated some $4,620,000.00 of the proceeds of two R & D tax shelters. From that time to the present, various other attorneys and several Judges of various inferior Courts have attempted to find significant improper or unlawful actions of Beale where none such exist. Consequently, to protect the original law firms, new law firms deliberately exploited malpractice. These law firms were aided by the District Court Judge who found binding agreements where no agreements lawfully exist, who found that $380,000.00 is the same as $1,700,000.00, who overturned the Federal Securities Act of 1933 as amended, who overturned U. S. v. Dubilier Condenser Corp., 289 U. S. 178 (1933) as well as B. F. Gladding & Co. v. Scientific Anglers, 248 F. 2d 483 (6th Cir. 1957) with no new intervening

law, who denied Amendment XIV of the Constitution, who denied **Foman v. Davis**, 371 U. S. 178 (1962), who denied **International Shoe v. Washington**, 326 U. S. 310 (1945), etc., etc.

Beale, not having been bred to accept improper defeat, began reading law. After expending move than reasonable effort in the original Court, Beale filed additional suits. Beale found he could prove that attorneys had unlawful access to the Office of the Clerk. Beale further found that Judges of other District Courts were no better than the original Court, i.e., rather than rule according to the law (Art. VI.of the Constitution) they improperly dismissed cases, citing **Pierson v. Ray**, supra, as demanding, and conveniently ignoring most of the material in the

Complaint. The charade that only State issues are involved was an all too obvious play to get Beale out of the Federal Court and into the State Court wherein Beale would not sue a Federal employee, i.e., the Judge. Beale subsequently found that the U. S. Court of Appeals for the 6th Circuit was no better and possibly worse. That Appeals Court also upheld **Pierson v. Ray** over 42 USC 1983, etc. This Court is well aware of the machinations of cases in that Court through Civil Action C2-87-1116 in the Federal District Court for the Southern District of Ohio, Eastern Division, since this Court was originally named in that action.

H. STATE COURT ACTIONS

Not Applicable.

I. JURISDICTION BASIS

The basis of jurisdiction in the original inferior Courts that of Federal questions, i.e., 28 USC §1331.

J. REASONS FOR SEEKING WRIT OF CERTIORARI

The first and most important reason for seeking the writ is that Beale would like to have justice for the stockholders of the corporation and for himself. The second reason is that throughout this litigation Beale has found it abhorrent that allegedly the most incorrigible criminals reside within the judicial system and are cloaked with respect of their own manufacture.

CERTIFICATE OF SERVICE

The Petitioner herewith certifies that copies of this Petition have been served this date by regular U. S. Mail, postage prepaid, in accord with Rule 28, Rules of the Supreme Court of the United States upon the following at the address indicated:
Date_____

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